

## SENATE BILL NO. 121

INTRODUCED BY L. JENT

BY REQUEST OF THE COMMISSIONER OF POLITICAL PRACTICES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE MANNER IN WHICH THE COMMISSIONER OF POLITICAL PRACTICES MAY ENFORCE SUBPOENAS ISSUED BY THE COMMISSIONER; AND AMENDING SECTION 13-37-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 13-37-111, MCA, is amended to read:

**"13-37-111. Investigative powers and duties -- recusal.** (1) Except as provided in 13-35-240, the commissioner is responsible for investigating all of the alleged violations of the election laws contained in Title 13, chapter 35, of this title or this chapter and in conjunction with the county attorneys is responsible for enforcing these election laws.

(2) The commissioner may:

(a) investigate all statements filed pursuant to the provisions of Title 13, chapter 35, of this title or this chapter and shall investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant to the provisions of chapter 35 ~~of this title~~ or this chapter. Upon the submission of a written complaint by any individual, the commissioner shall investigate any other alleged violation of the provisions of Title 13, chapter 35, of this title, this chapter, or any rule adopted pursuant to chapter 35 ~~of this title~~ or this chapter.

(b) inspect any records, accounts, or books that must be kept pursuant to the provisions of Title 13, chapter 35, of this title or this chapter that are held by any political committee or candidate, as long as the inspection is made during reasonable office hours; and

(c) administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records that are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 13, chapter 35, of this title or this chapter.

(3) In case of disobedience of any subpoena issued and served under this section or of the refusal of any witness to testify as to any material matter with regard to which the witness may be interrogated in a

1 proceeding before the commissioner, the commissioner may apply to ~~any~~ THE district court in the ~~state~~ COUNTY  
2 IN WHICH THE RESPONDENT RESIDES for an order to compel compliance with the subpoena or the giving of  
3 testimony. The court shall hear the matter as expeditiously as possible. If the disobedience or refusal is found  
4 to be unjustified, the court shall enter an order requiring compliance. Disobedience of the order is punishable by  
5 contempt of court in the same manner and by the same procedures as is provided for similar conduct committed  
6 in the course of civil actions in district courts. If another method of subpoena enforcement or compelling testimony  
7 is provided by statute, it may be used as an alternative to the method provided for in this section.

8 ~~(3)~~(4) If the commissioner determines that considering a matter would give rise to the appearance of  
9 impropriety or a conflict of interest, the commissioner is recused from participating in the matter.

10 ~~(4)~~(5) (a) If the commissioner is recused pursuant to this section, the commissioner shall appoint a  
11 deputy, subject to subsection ~~(4)(b)~~ (5)(b).

12 (b) The deputy:

13 (i) may not be an employee of the office of the commissioner;

14 (ii) must have the same qualifications as specified for the commissioner in 13-37-107;

15 (iii) with respect to only the specific matter from which the commissioner is recused, has the same  
16 authority, duties, and responsibilities as the commissioner would have absent the recusal; and

17 (iv) may not exercise any powers of the office that are not specifically related to the matter for which the  
18 deputy is appointed.

19 ~~(5)~~(6) The appointment of the deputy is effectuated by a contract between the commissioner and the  
20 deputy. The contract must specify the deputy's term of appointment, which must be temporary, the matter  
21 assigned to the deputy, the date on which the matter assigned must be concluded by the deputy, and any other  
22 items relevant to the deputy's appointment, powers, or duties."

23 - END -